

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
TRENTON VICINAGE**

PATRICIA FISCHER,

Plaintiff,

v.

FCA US LLC, JOHN DOES 1-5,

Defendant.

Civil Action No.:

**NOTICE OF REMOVAL**

**TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

Pursuant to Title 28 U.S.C. §§ 1332 and 1446, Defendant, FCA US, LLC, hereby gives notice of removal of an action filed against it in the Superior Court of New Jersey, Ocean County, to the United States District Court for the District of New Jersey. In support of the removal, Defendant respectfully offers the following:

**I. PRELIMINARY MATTERS**

1. On or about November 30, 2017, Plaintiff commenced this personal injury action in the Superior Court of New Jersey, Law Division, Ocean County, bearing Docket Number OCN-L-003295-17. *See* Summons and Complaint attached hereto as Exhibit A.
2. Defendant FCA US, LLC was served with the Summons and Complaint on May 18, 2018.
3. This is a product liability case involving a 2014 Chrysler vehicle bearing VIN # 1C4RJFBG6EC238829, wherein plaintiff alleges, *inter alia*, that she suffered personal injuries as a result of defects in the design and manufacturing of the vehicle.

## II. GROUNDS FOR REMOVAL

4. Plaintiff Patricia Fischer is a resident of the State of New Jersey. *See* Exhibit A, p. 1. Plaintiff is, therefore, a citizen of the State of New Jersey.

5. FCA US, LLC, is a Delaware limited liability company with its principal place of business in Auburn Hills, Michigan. However, as explained in detail *infra*, FCA US, LLC is a citizen of the Netherlands and of the United Kingdom.

6. The citizenship of a limited liability company, such as FCA US LLC, is determined by the citizenship of each of its members. *See Johnson v. Smithkline Beecham Corp.*, 742 F.3d 337, 348 (3d Cir. 2013); *Zambelli Fireworks Mfg. Co. v. Wood*, 592 F.3d 412, 420 (3d Cir. 2010).

7. The traditional elements of corporate citizenship, the principal place of business and state of organization, are not proper factors in the citizenship analysis of a limited liability company. *See Johnson*, 724 F.3d at 347-48 ("The principal place of business of an unincorporated entity is therefore irrelevant to determining its citizenship"); *Rice Drilling B, LLC v. Int'l Assets Advisory, LLC*, 2013 U.S. Dist. LEXIS 170304, \*12 (W.D. Pa. Dec. 23, 2013) (disregarding state of organization of a limited liability company in determining its citizenship).

8. FCA US LLC is a limited liability company with a single member: Fiat North American Holdings LLC, a Delaware limited liability company with its principal place of business in Auburn Hills, Michigan.

9. In turn, Fiat North American Holdings LLC has a sole member: Fiat Chrysler Automobiles N.V.

10. Fiat Chrysler Automobiles N.V. is a citizen of the Netherlands and of the United Kingdom, because it is a corporation organized and existing under the laws of the Netherlands, with its principal place of business in London. *See* 28 U.S.C. § 1332(c)(1) (instructing that "a corporation

shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and the State or foreign state where it has its principal place of business.”).

11. Because its sole member is a citizen of the Netherlands and the United Kingdom, Fiat North American Holdings LLC is also a citizen of those two foreign states.

12. Likewise, because its sole member is a citizen of the Netherlands and the United Kingdom, FCA US LLC is also a citizen of those two foreign states.

13. Therefore, for jurisdictional purposes, FCA US LLC is not a citizen of New Jersey, as its sole member is not a citizen of New Jersey.

14. FCA US LLC does not have any members that are located in the State of New Jersey or that are citizens of the State of New Jersey.

15. There is complete diversity of citizenship between Plaintiff and FCA US LLC

16. In the Complaint, Plaintiff Patricia Fischer claims that she suffered “injury and swelling in her leg, ligament and other structures in her leg, and has and will continue to incur medical and hospital expenses, pain and suffering, and has and will lose wages, and suffer such injuries or damages in the future.” *See* Exhibit A, p. 1-2.

17. Given the alleged severity and permanency of Plaintiff Patricia Fischer’s injuries and her claims for damages, it is facially apparent that Plaintiff is demanding an amount, exclusive of interest and costs, in excess of the jurisdictional minimum set forth in 28 U.S.C. § 1332.

18. Accordingly, this Honorable Court has original jurisdiction over the claims in the Complaint pursuant to the provisions of 28 U.S.C. § 1332, because there is complete diversity between the named parties and the amount in controversy exceeds \$75,000.

19. As a result, this entire case is one which may be removed to this Court by virtue of the provisions of 28 U.S.C. § 1441(a).

### **III. TIMELINESS**

20. This Notice of Removal is timely filed in accordance with 28 U.S.C. § 1446(b), in that it is filed within thirty (30) days after May 18, 2018, the date FCA US, LLC, was served with the Complaint and first ascertained that the matter is removable. *See* Fed. R. Civ. P. 6(a)(1)(B) & (C).

21. In accordance with 28 U.S.C. § 1446(b) this case has been on file for less than 1 year.

### **IV. VENUE**

22. Plaintiff's action is pending in the Superior Court of New Jersey, Law Division, Ocean County, which is within this judicial district. *See* 28 U.S.C. § 110. Thus, this Court is the proper venue for removal pursuant to 28 U.S.C. § 1441(a).

### **V. NOTICE**

23. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be given to Plaintiffs and a copy of the Notice of Removal will be filed with the Clerk of the Superior Court of New Jersey, Law Division, Ocean County.

### **VI. MISCELLANEOUS**

24. A copy of all process, pleadings and orders served upon FCA US LLC in this action are attached as Exhibit A.

### **VI. CONCLUSION**

For the foregoing reasons, FCA US LLC, respectfully requests that this action, previously pending in the Superior Court of New Jersey, Law Division, Ocean County, be removed to this Court, and that this Court proceed as if this case had been originally initiated in this Court.

**TANENBAUM KEALE LLP**

DATED: June 13, 2018

By: /s/ Tiffany M. Alexander

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Timothy R. Freeman, Esq.  
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*Attorneys for Defendant,*  
*FCA US LLC*

# EXHIBIT A



**Service of Process  
Transmittal**

05/18/2018

CT Log Number 533365796

**TO:** Melissa Gravlin  
FCA US LLC  
1000 Chrysler Dr Ofc of  
Auburn Hills, MI 48326-2766

**RE: Process Served in New Jersey**

**FOR:** FCA US LLC (Domestic State: DE)

**ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:**

**TITLE OF ACTION:** Patricia Fischer vs. FCA US, LLC, et al., Dfts.  
*Name discrepancy noted.*

**DOCUMENT(S) SERVED:** Summons, Complaint

**COURT/AGENCY:** Ocean County Superior Court - Law Division, NJ  
Case # OCNL00329517

**NATURE OF ACTION:** Product Liability Litigation - Manufacturing Defect - 2014 Chrysler bearing, VIN: 1C4RJFBG6EC238829

**ON WHOM PROCESS WAS SERVED:** The Corporation Trust Company, West Trenton, NJ

**DATE AND HOUR OF SERVICE:** By Courier on 05/18/2018

**JURISDICTION SERVED :** New Jersey

**APPEARANCE OR ANSWER DUE:** Within 35 days from the date of receipt, not counting the date of receipt

**ATTORNEY(S) / SENDER(S):** Howard A. Gutman  
Law Office of Howard A. Gutman  
230 Route 206, Suite 307  
Flanders, NJ 07836  
973-598-1980

**ACTION ITEMS:** CT has retained the current log, Retain Date: 05/21/2018, Expected Purge Date: 05/26/2018  
  
Image SOP  
  
Email Notification, Lance Arnott SOPVerification@wolterskluwer.com

**SIGNED:** The Corporation Trust Company  
**ADDRESS:** 820 Bear Tavern Road  
3rd Floor  
West Trenton, NJ 08628  
**TELEPHONE:** 609-538-1818

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Label Date: 5/14/2018 12:51 PM



Account No: 4092A-BOX  
Law Office of Howard Gutman  
Howard Gutman  
230 Route 206  
Suite 307  
Flanders, NJ 07836-9189

**RECIPIENT**

The Corporation Trust Company  
820 Bear Tavern Road  
305  
Ewing Township, NJ 08628

**SIGNATURE REQUIRED**

T



Law Office of Howard A. Gutman  
230 Route 206, Suite 307  
Flanders, New Jersey 07836  
(973) 598-1980  
Attorney for Plaintiff

Patricia Fischer,  
  
Plaintiff

vs

FCA US, LLC, John Does 1-5,

Defendant

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: OCEAN COUNTY

DOCKET NO. OCN-L-003295-17

**SUMMONS**

From The State of New Jersey To The Defendant(s) Named Above:

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (A directory of the addresses of each deputy clerk of the Superior Court is available in the Civil Division Management Office in the county listed above and online at [http://www.njcourts.gov/forms/10153\\_deptyclerklawref.pdf](http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf).) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, P.O. Box 971, Trenton, NJ 08625-0971. A filing fee payable to the Treasurer, State of New Jersey and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$175.00 and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at [http://www.njcourts.gov/forms/10153\\_deptyclerklawref.pdf](http://www.njcourts.gov/forms/10153_deptyclerklawref.pdf).

*Michelle M. Smith*

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Clerk of the Superior Court

DATED: May 14, 2018

Defendant to Be Served:

FCA US, LLC  
1000 Chrysler Drive  
Auburn Hills, Michigan 48326-2766

via agent

The Corporation Trust Company  
820 Bear Tavern Road  
West Trenton, New Jersey 08628

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Law Office of Howard A. Gutman  
230 Route 206, Suite 307  
Flanders, New Jersey 07836  
(973) 598-1980  
Attorney for Plaintiff

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Patricia Fischer

Plaintiff,

vs

FCA US, LLC, John Does 1-5.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: OCEAN COUNTY

DOCKET NO.

**COMPLAINT**

Defendant.

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Plaintiff, by and through his attorney, by way of complaint says:

**Count One (Product Liability and Negligence)**

1. Plaintiff, Patricia Fischer, resides at 901 Schley Avenue, Toms River, New Jersey and is the owner and operator of a 2014 Chrysler bearing VIN # 1C4RJFBG6EC238829.
2. Defendant, FCA USA, LLC, manufactured and or distributed the above vehicle.
3. Plaintiff was involved in an accident on or about December 3, 2015. The accident occurred because of a defect in the vehicle causing the vehicle to move forward while placed in park, and causing the car to come in contact with Plaintiff's leg, and Plaintiff to suffer injury.
4. With respect to Plaintiff, the vehicle was defective in that it was not reasonably fit, suitable, or safe for its intended purpose. The design of the product deviated from design specifications, performance standards, failed to contain adequate warnings or instructions, and its condition caused or contributed to the above accident.
5. As a result, Plaintiff suffered injury and swelling in her leg, ligament and other structures in her leg, and has and will continue to incur medical and hospital expenses, pain and suffering, and has and will lose wages, and suffer such injuries or damage in the future. In addition, Defendant was negligent in that it failed to use reasonable care to prevent the injury.

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6. In addition, by manufacturing or otherwise placing in the stream of commerce a defective product the Defendant breached expressed and implied warranties of merchantability and Plaintiff has suffered injury.

7. As a result of the above, Plaintiff has suffered injury including the damage to her leg. She has and will require medical and hospital treatment, has and will experience pain and suffering, and loss of income and has had activities restricted.

8. John Doe 1-3 is a company which manufactured or distributed the subject vehicle and is therefore liable for the claims herein.

#### Prayer for Relief

WHEREFORE Plaintiff demands judgment against Defendant for compensatory damages, punitive damages, interest, attorney's fees, costs, and such other legal or equitable relief as this court may deem just.

#### Certification and Jury Demand

I certify that the matter in controversy is not the subject of any pending or contemplated litigation or arbitration. Plaintiff requests a trial by jury.

*Howard Gutman*

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Dated: 11/30/17  
Howard A. Gutman  
Attorney for Plaintiff